



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2022-0482; FRL-9906-02-R7]

Air Plan Approval; Missouri; General Conformity Rescission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Missouri State Implementation Plan (SIP). This final action will rescind the Missouri General Conformity Rule from the Missouri SIP. General Conformity ensures federal agency actions, such as airport construction, do not interfere with a state's plans to attain and maintain national standards for air quality. After rescission of the state's General Conformity Rule, federal agency actions will be subject to the Federal General Conformity Rule.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2022-0482. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Jed D. Wolkins, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7588; email address wolkins.jed@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to EPA.

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I. What is Being Addressed in this Document?

The EPA is approving the rescission of Missouri's General Conformity Rule, 10 CSR 10-6.300, from Missouri's SIP. General Conformity ensures federal agency actions, such as airport construction, do not interfere with a state's plans to attain and maintain national standards for air quality.

As explained in detail in the EPA's proposed rule, Missouri has demonstrated that removal of 10 CSR 10-6.300 will not interfere with attainment of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA because federal agency actions will be subject to the same requirements

under the Federal General Conformity Rule, codified at 40 CFR Part 93 Subpart B.¹ The public comment period on the EPA's proposed rule opened June 12, 2022, the date of its publication in the *Federal Register* and closed on July 13, 2022. During this period, the EPA received no comments. Therefore, the EPA is finalizing its proposal to remove 10 CSR 10-6.300 from the Missouri SIP.

II. Have the Requirements for Approval of a SIP Revision Been Met?

Missouri's General Conformity Rule, 10 CSR 10-6.300, titled "Conformity of General Federal Actions to State Implementation Plans," was incorporated into the SIP consistent with section 176(c) of the CAA, as amended (42 U.S.C. 7506(c)), and regulations located in 40 CFR Part 93, Subpart B, that directed states to include in their SIPs provisions requiring General Conformity of Federal actions to the applicable implementation plan. In 2005, Congress passed the "Safe, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU). Section 6011 of SAFETEA-LU amended section 176(c) of the CAA to remove the requirement for states to adopt a General Conformity rule into the SIP. In turn, EPA amended the federal General Conformity rule at 40 CFR Part 51, Subpart W, to make state adoption of a General Conformity rule into the SIP optional rather than mandatory (75 FR 17258). 10 CSR 10-6.300 duplicates the federal regulations at 40 CFR Part 93, Subpart B. After

¹ 87 FR 35709, June 13, 2022

rescission of the state's General Conformity Rule, federal agency actions will be subject to the Federal General Conformity Rule.

CAA section 110(1), 42 U.S.C. 7410(1), states that the Administrator cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement. The federal General Conformity rule contains the same requirements as the state's General Conformity rule. Therefore, the same requirements will apply after the state's rule is rescinded and there will be no associated emissions increase or adverse impact to air quality. For this reason, the EPA finds that this change will not interfere with any area's ability to attain or maintain any NAAQS, make reasonable progress towards natural visibility in Missouri's Class I areas nor any Class I area in another state Missouri impacts, or any other applicable requirement.

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from August 16, 2021 to October 7, 2021 and received no comment. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What Action is the EPA Taking?

The EPA is taking final action to approve a SIP revision submitted by the State of Missouri on April 15, 2022, rescinding the State General Conformity Rule, 10 CSR 10-6.300 from the Missouri SIP. EPA has determined that this revision would not interfere with attainment or maintenance of any NAAQS or with any other CAA requirement because the same requirements exist in federal regulations.

IV. Incorporation by Reference

In this document, the EPA is deleting rules which were previously incorporated by reference from the applicable Missouri SIP. In accordance with requirements of 1 CFR 51.5, the EPA is deleting certain Missouri rules as described in Section 1 of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the FOR **FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Environmental Justice Concerns

This action approves the rescission of the state's General Conformity rule from the Missouri SIP. The state's rule duplicates the federal General Conformity rule. Once approved, all federal actions that would have been subject to the state rule will be subject to the same requirements in the federal rule. For this reason, this action will not result in disproportionately high and adverse human health or environmental effects on minority populations, low-income

populations and/or indigenous peoples.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The basis for this determination is contained in Section V of this action, "Environmental Justice Concerns."
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).
- This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United

States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

- Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 9, 2022.

Meghan A. McCollister
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart-AA Missouri

§52.1320 [Amended]

2. In §52.1320, the table in paragraph (c) is amended by removing the entry "10-6.300" under the heading "Chapter 6 - Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri."

3. In §52.1323, paragraphs (h) and (j) are revised to read as follows:

§52.1323 Approval status.

* * * * *

(h) Missouri rule 10 CSR 10-6.300 was rescinded on **[insert date 30 days after date of publication in the Federal Register]**.

* * * * *

(j) Missouri rule 10 CSR 10-6.300 was rescinded on **[insert date 30 days after date of publication in the Federal Register]**.

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